

AMENDED IN SENATE MAY 11, 2015

AMENDED IN SENATE APRIL 8, 2015

SENATE BILL

No. 462

Introduced by Senator Wolk

(Principal coauthor: Assembly Member Dodd)

(Coauthor: Senator McGuire)

~~(Coauthor: Assembly Member Levine)~~

(Coauthors: Assembly Members Levine and Wood)

February 25, 2015

An act to amend Section 25503.6 of, and to add Section 25503.34 to, the Business and Professions Code, relating to alcoholic ~~beverages.~~ *beverages, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 462, as amended, Wolk. Alcoholic beverages: tied house restrictions: Sonoma County.

(1) The Alcoholic Beverage Control Act generally prohibits a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising. The act creates a variety of exceptions from this prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions. Existing law requires the purchase of advertising space or time in this context to be conducted pursuant to a written contract with the on-sale licensee, with a specified exception. Existing law defines a beer manufacturer for these specific purposes as including any holder of an out-of-state beer manufacturer's certificate or any holder of a beer and wine importer's

general license. Existing law makes it a crime for an on-sale licensee to coerce certain licensees to purchase advertising space or time, as specified.

This bill would expand the exceptions described above to allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees, as described above, at a specified complex located on the campus of, and owned by, Sonoma State University. The bill would permit the contract for purchasing space or time in this context to also be with an owner, long-term tenant of the venue, or licensee of the venue. ~~The bill would also include within the exceptions described above generally, as well as for the Sonoma State University complex specifically, beer and wine wholesalers that also hold an off-sale beer and wine retail license and only sell wine.~~ By expanding the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law permits specified alcoholic beverage licensees to donate money and sponsor events at certain sites and facilities.

This bill would permit a holder of a winegrower's license, a beer manufacturer, as defined, a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent to donate wine, beer, or spirits, and make monetary contributions to a specified complex located on the campus of, and owned by, Sonoma State University, if certain conditions are met. ~~The bill would also include within this authorization generally, as well as for the Sonoma State University complex specifically, beer and wine wholesalers that also hold an off-sale beer and wine retail license and only sell wine, as specified.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, ~~a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine~~, a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County or Alameda County.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located in San Bernardino County.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(F) An outdoor stadium and a fully enclosed arena with fixed seating capacities in excess of 10,000 seats located in Fresno County.

(G) An athletic and entertainment complex of not less than 50 acres that includes within its boundaries an outdoor stadium with a fixed seating capacity of at least 8,000 seats and a second outdoor stadium with a fixed seating capacity of at least 3,500 seats located within Riverside County.

(H) An outdoor stadium with a fixed seating capacity in excess of 1,500 seats located in Tulare County.

1 (I) A motorsports entertainment complex of not less than 50
2 acres that includes within its boundaries an outdoor speedway with
3 a fixed seating capacity of at least 50,000 seats, located within San
4 Bernardino County.

5 (J) An exposition park, owned or operated by a bona fide
6 nonprofit organization, of not less than 400 acres with facilities
7 including a grandstand with a seating capacity of at least 8,000
8 people, at least one exhibition hall greater than 100,000 square
9 feet, and at least four exhibition halls, each greater than 30,000
10 square feet, located in the City of Pomona or the City of La Verne
11 in Los Angeles County.

12 (K) An outdoor soccer stadium with a fixed seating capacity of
13 at least 25,000 seats, an outdoor tennis stadium with a fixed
14 capacity of at least 7,000 seats, an outdoor track and field facility
15 with a fixed seating capacity of at least 7,000 seats, and an indoor
16 velodrome with a fixed seating capacity of at least 2,000 seats, all
17 located within a sports and athletic complex built before January
18 1, 2005, within the City of Carson in Los Angeles County.

19 (L) An outdoor professional sports facility with a fixed seating
20 capacity of at least 4,200 seats located within San Joaquin County.

21 (M) A fully enclosed arena with a fixed seating capacity in
22 excess of 13,000 seats in the City of Inglewood.

23 (N) (i) An outdoor stadium with a fixed seating capacity of at
24 least 68,000 seats located in the City of Santa Clara.

25 (ii) A beer manufacturer, the holder of a winegrower's license,
26 a distilled spirits rectifier, a distilled spirits manufacturer, or
27 distilled spirits manufacturer's agent may purchase advertising
28 space and time from, or on behalf of, a major tenant of an outdoor
29 stadium described in clause (i), provided the major tenant does not
30 hold a retail license, and the advertising may include the placement
31 of advertising in an on-sale licensed premises operated at the
32 outdoor stadium.

33 (O) A complex of not more than 50 acres located on the campus
34 of, and owned by, Sonoma State University dedicated to presenting
35 live artistic, musical, sports, food, beverage, culinary, lifestyle, or
36 other cultural and entertainment events and performances with
37 venues that include a concert hall with a seating capacity of
38 approximately 1,500 seats, a second concert hall with a seating
39 capacity of up to 300 seats, an outdoor area with a seating capacity
40 of up to 5,000 seats, and a further outdoor area with a seating

1 capacity of up to 10,000 seats. With respect to this complex,
2 advertising space and time may also be purchased from or on behalf
3 of the owner of the complex, a long-term tenant or licensee of the
4 venue, whether or not the owner, long-term tenant, or licensee
5 holds an on-sale license.

6 (2) The outdoor stadium or fully enclosed arena described in
7 paragraph (1) is not owned by a community college district.

8 (3) The advertising space or time is purchased only in connection
9 with the events to be held on the premises of the exposition park,
10 stadium, or arena owned by the on-sale licensee. With respect to
11 an exposition park as described in subparagraph (J) of paragraph
12 (1) that includes at least one hotel, the advertising space or time
13 shall not be displayed on or in any hotel located in the exposition
14 park, or purchased in connection with the operation of any hotel
15 located in the exposition park. With respect to the complex
16 described in subparagraph (O) of paragraph (1), the advertising
17 space or time shall be purchased only in connection with live
18 artistic, musical, sports, food, beverage, culinary, lifestyle, or other
19 cultural and entertainment events and performances to be held on
20 the premises of the complex.

21 (4) The on-sale licensee serves other brands of beer distributed
22 by a competing beer wholesaler in addition to the brand
23 manufactured or marketed by the beer manufacturer, other brands
24 of wine distributed by a competing wine wholesaler in addition to
25 the brand produced by the ~~winegrower or the beer and wine~~
26 ~~wholesaler that also holds an off-sale beer and wine retail license~~
27 ~~and only sells wine~~, *winegrower*, and other brands of distilled
28 spirits distributed by a competing distilled spirits wholesaler in
29 addition to the brand manufactured or marketed by the distilled
30 spirits rectifier, the distilled spirits manufacturer, or the distilled
31 spirits manufacturer's agent that purchased the advertising space
32 or time.

33 (b) Any purchase of advertising space or time pursuant to
34 subdivision (a) shall be conducted pursuant to a written contract
35 entered into by the beer manufacturer, the holder of the
36 ~~winegrower's license, the beer and wine wholesaler that also holds~~
37 ~~an off-sale beer and wine retail license and only sells wine~~, the
38 distilled spirits rectifier, the distilled spirits manufacturer, or the
39 distilled spirits manufacturer's agent and any of the following:

40 (1) The on-sale licensee.

1 (2) With respect to clause (ii) of subparagraph (N) of paragraph
2 (1) of subdivision (a), the major tenant of the outdoor stadium.

3 (3) With respect to subparagraph (O) of paragraph (1) of
4 subdivision (a), the owner, a long-term tenant of the complex, or
5 licensee of the complex, whether or not the owner, long-term
6 tenant, or licensee holds an on-sale license.

7 (c) Any beer ~~manufacturer, any~~ *manufacturer or* holder of a
8 winegrower's license, ~~any beer and wine wholesaler that also holds~~
9 ~~an off-sale beer and wine retail license and only sells wine,~~ any
10 distilled spirits rectifier, any distilled spirits manufacturer, or any
11 distilled spirits manufacturer's agent who, through coercion or
12 other illegal means, induces, directly or indirectly, a holder of a
13 wholesaler's license to fulfill all or part of those contractual
14 obligations entered into pursuant to subdivision (a) or (b) shall be
15 guilty of a misdemeanor and shall be punished by imprisonment
16 in the county jail not exceeding six months, or by a fine in an
17 amount equal to the entire value of the advertising space, time, or
18 costs involved in the contract, whichever is greater, plus ten
19 thousand dollars (\$10,000), or by both imprisonment and fine. The
20 person shall also be subject to license revocation pursuant to
21 Section 24200.

22 (d) Any on-sale retail licensee, as described in subdivision (a),
23 who, directly or indirectly, solicits or coerces a holder of a
24 wholesaler's license to solicit a beer manufacturer, a holder of a
25 winegrower's license, ~~a beer and wine wholesaler that also holds~~
26 ~~an off-sale beer and wine retail license and only sells wine,~~ a
27 distilled spirits rectifier, a distilled spirits manufacturer, or a
28 distilled spirits manufacturer's agent to purchase advertising space
29 or time pursuant to subdivision (a) or (b) shall be guilty of a
30 misdemeanor and shall be punished by imprisonment in the county
31 jail not exceeding six months, or by a fine in an amount equal to
32 the entire value of the advertising space or time involved in the
33 contract, whichever is greater, plus ten thousand dollars (\$10,000),
34 or by both imprisonment and fine. The person shall also be subject
35 to license revocation pursuant to Section 24200.

36 (e) For the purposes of this section, "beer manufacturer" includes
37 any holder of a beer manufacturer's license, any holder of an
38 out-of-state beer manufacturer's certificate, or any holder of a beer
39 and wine importer's general license.

(f) *The Legislature finds that it is necessary and proper to require a separation among manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and intends that this section be construed accordingly.*

SEC. 2. Section 25503.34 is added to the Business and Professions Code, to read:

25503.34. (a) A holder of a winegrower's license, ~~a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine~~, a beer manufacturer as defined in subdivision (d), a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may donate wine, beer, or spirits, and make monetary contributions to a complex dedicated to the presentation of live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural entertainment events or performances, if all of the following conditions are met:

(1) The permanent retail on-sale licensee in the complex is a nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.

(2) The complex is of not more than 50 acres located on the campus of, and owned by, Sonoma State University dedicated to presenting live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances with venues that include a concert hall with a seating capacity of approximately 1,500 seats, a second concert hall with a seating capacity of up to 300 seats, an outdoor area with a seating capacity of up to 5,000 seats, and a further outdoor area with a seating capacity of up to 10,000 seats.

(3) The complex has a permanent retail on-sale license that is a long-term tenant of the complex.

(4) The donation or monetary contribution shall not be conditioned directly or indirectly, in any way, on the purchase, sale, or distribution of any alcoholic beverage manufactured or distributed by the holder of a winegrower's license, ~~the holder of a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine~~, the beer manufacturer, the distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent by the licensee of the complex.

(5) *The permanent retail on-sale licensee in the complex shall:*

(A) *Serve other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by a contributing beer manufacturer.*

(B) *Serve other brands of wine distributed by a competing wine wholesaler in addition to the brand produced or distributed by a contributing winegrower.*

(C) *Serve other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the contributing distilled spirits manufacturer or distilled spirits manufacturer's agent.*

~~(5)~~

(6) Except as provided in paragraph ~~(6)~~; (7), donated wine, beer, or spirits shall not be used or sold by the permanent retail licensee and a monetary contribution shall not be used in, or for the benefit of, the permanent retail on-sale licensee.

~~(6)~~

(7) Donated wine, beer, or spirits may only be used or sold in connection with fundraising activities held on or off the permanent licensed premises. Fundraising activities held in any area included in the licensed premises during which donated wine, beer, or spirits is used or sold shall not take place at the complex while the permanent retail licensee is exercising its license privileges and shall only be conducted pursuant to a temporary license issued by the department, provided however, that the permanent licensee shall surrender its license during the fundraising only for those areas of the complex where the fundraising activities are being presented and may continue to operate under its permanent license in other areas covered by the license where the fundraising is not taking place.

(b) The complex may acknowledge and thank a donating winegrower, ~~beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine,~~ beer manufacturer as defined in subdivision (d), distilled spirits rectifier, distilled spirits manufacturer, or distilled spirits manufacturer's agent in the complex's event programs, on the complex's Internet Web site, and on stage at the permanent licensed premises during an event or performance.

(c) The Legislature finds that it is necessary and proper to require a separation ~~between~~ among manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general ~~prohibition~~, prohibition and intends that this section be construed accordingly.

(d) For the purposes of this section, "beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.

~~(e) The privilege granted by this section to a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine shall apply only to wine produced for the donating licensee that is labeled with a brand owned exclusively by the donating licensee.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*
3 *In order to allow the Green Music Center to continue to provide*
4 *performing arts and to authorize the receipt of donations to*
5 *facilitate that provision, it is necessary that this act take effect*
6 *immediately.*

O